

Local Ordinances and Agricultural Impacts



**AGRICULTURE AND FORESTRY
AWARENESS STUDY COMMISSION
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Topics



- Existing Protections
- Local Ordinances
- HB 74 Study
- Potential Issues

Existing Protections



- Bona Fide Farms
- Zoning
- Pesticides
- Forestry
- Building Codes
- GMO Crops
- Stormwater/Erosion Control

Zoning



- G.S. 153A-340
 - Exempts “bona fide farms” from zoning ordinances
 - ✦ Conventional vegetable, fruit, flower/plant production
 - ✦ Forestry
 - ✦ Livestock/poultry operations
 - ✦ Aquaculture
 - ✦ Farm buildings and structures
 - ✦ Marketing, agritourism, value added products
 - S.L. 2013-347 added grain storage and grain warehouses to the definition

Forest Resources



- Session Law 2005-447
- Prohibits cities and counties from enacting or enforcing ordinances that regulate forestry activities if:
 - The forest land is taxed on the basis of its Present Use Value (PUV) as forest land, OR
 - The forestry activity is conducted under a Forest Management Plan
- Existing Local Bills remain in effect
- Does not affect zoning authority

Forest Resources



- Many local zoning ordinances specifically exempt forestry activities or refer to the Forest Service Best Management Practices Manual
- Typical Local Zoning Provisions:
 - Buffers along roadways or property lines
 - Preservation of “heritage trees” – tree protection ordinances
 - Open burning limitations

Forest Resources



- Brunswick County – clear cutting
 - “Visual character” of the surrounding property to be maintained
 - Vegetated perimeter buffers along property borders and public right of way

Forest Resources



- Open Burning
 - Permit requirements
 - Setbacks
 - Time of day
 - Prohibition inside city limits

Building Codes



- Farm buildings are exempt from building codes, including:
 - Livestock buildings
 - Greenhouses
 - Primitive camps
 - Primitive buildings - sheds, barns, equipment storage, etc.
- Session Law 2013-265- Allows farm buildings that are used for public or private events (meetings, weddings, etc.) to maintain their exempt status

Water Use



- Session Law 2013-265
- Allows farm owners to withdraw water that is located wholly on their property during times of water shortage.

Nuisance Ordinances



- Session Law 2013-314
 - Prevents agriculture and forestry activities from being declared a nuisance.
 - Allows the exemptions to be maintained when changes are made to agriculture or forestry activities at a site.

GMO Crops



- Session Law 2013-197
- The Board of Agriculture shall have the sole authority to prohibit the planting, cultivation, harvesting, disposal, handling, or movement of plants as defined in G.S. 106-202.12.

Pesticides



- NC Pesticide Law G.S. 143-465(d):
- NC Pesticide Law of 1971 prevents local governments from regulating pesticides in a more stringent manner than State law.

HB 74 Study



- HB 74 Study: **SECTION 10.2.(c)** The Environmental Review Commission shall study the circumstances under which cities and counties should be authorized to enact ordinances (i) that regulate a field that is also regulated by a State or federal statute enforced by an environmental agency or that regulate a field that is also regulated by a rule adopted by an environmental agency and (ii) that are more stringent than the State or federal statute or State rule.

HB 74 Study



- **HB 74: SECTION 10.2(a)** A city or county may enact an ordinance that regulates a field that is also regulated by a State or federal statute enforced by an environmental agency or that regulates a field that is also regulated by a rule adopted by an environmental agency if the ordinance is approved by a unanimous vote of the members present and voting.
- Includes The Pesticide Board under G.S. 143-136
- In conflict with the existing prohibition under G.S. 143-465(d)

HB 74 Study



- Clarity needed on powers of city or county governments
- Existing structure should remain in place – regulation by the Pesticide Board with no authority by local governments for more stringent regulation
- If HB 74 study results in expanded local control, existing agriculture protections should remain in place.

SWCD – Local Enforcement



- Lincoln and Gaston Counties
- The local Soil and Water Conservation District staff also enforce stormwater, erosion control, and buffer ordinances
- Agriculture is exempt from these ordinances

Potential Issues



- Fertilizer Regulations
- Proposal by Durham County to regulate fertilizer applicators at the local level
 - Chemical content of fertilizer
 - Labeling requirements for bags
 - Training of applicators
 - Registration fees
- Authority would have to be given by General Assembly

Potential Issues



- Pesticide regulation
- Proposal by Town of Carrboro to ban pesticide use in town limits
 - Proposal was not in compliance with existing state law
 - Final result – Carrboro will not use pesticides on town property

Potential Issues



- Municipal Residuals
- Association of County Commissioners concerns about land application of residuals
- Highly regulated process by DENR and EPA
 - Metals and pathogen limits
 - Frequent testing requirements
 - Permitted land application sites
 - Required setbacks
- Beneficial reuse vs. disposal

Potential Issues



- Building Codes
- General confusion about when a structure or activity meets the farm definition
- Handle on a case-by-case basis

Benefits



- Encourage retention of existing exemptions
- Protect farmers from local hot-button issues – Pesticides, GMOs, Drought, etc.
- Equal regulation for farmers statewide – fair competition
- Reduce confusion by having consistent regulations
- If HB 74 study results in expanded local control, existing agriculture protections should remain in place.

Thank You!



Questions?

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